IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

WA.No. 1153 of 2007()

AGAINST THE JUDGEMENT IN WPC.12934/2007
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APPELLANT/PETITIONER:

THE ERNAKULAM DISTRICT CO-OPERATIVE PRINTING PRESS LTD. NO.E-119, CHURCH LANDING ROAD, COCHIN-16, REPRESENTED BY ITS SECRETARY SRI.K.K.SASIDHARAN.

BY ADV. SRI.DALE P.KURIEN

RESPONDENTS/RESPONDENTS:
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1. THE ADDITIONAL SALES TAX OFFICER-III, IV CIRCLE, ERNAKULAM.

2. DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, ERNAKULAM.

3. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, (TAXES) (B) DEPARTMENT, THIRUVANANTHAPURAM.

BY SPL. GOVERNMENT PLEADER FOR TAXES, SHRI V.V. ASOKAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A. No.1153 of 2007

Dated this, the 24th day of May, 2007.

JUDGMENT

H.L. DATTU, C.J.

This appeal is filed against the judgment of the learned single Judge in W.P(C) No.12934 of 2007 dated 12.04.2007.

2. The assessee, aggrieved by the orders of assessment passed by the assessing authority, had carried the matter by way of an appeal before the first appellate authority. The first appellate authority has rejected the appeal filed by the assessee. Aggrieved by the said order, the assessee has carried the matter by way of a second appeal before the Tribunal. Along with the memorandum of appeal, the assessee had filed a stay petition also.

3. The Tribunal, while considering the stay petition filed by the assessee, has granted an interim order subject to the condition that the assessee shall deposit 50% of the amount demanded by the assessing authority and also shall furnish security for the balance amount. Aggrieved by the said interim order so passed by the Tribunal, the petitioner was before this court in W.P.(C) No.12934 of 2007. This court, by judgment dated 12. 04.2007, has rejected the Writ Petition. Aggrieved by the said judgment, the petitioner is before us in this appeal.

4. Learned counsel for the appellant strenuously contended before

us that the Tribunal was not justified in imposing certain conditions while considering the stay petition filed by the assessee.

5. There is an order of assessment. Pursuant to the said order, demand notices were issued by the assessing authority to the assessee. The order of assessment is the subject matter of appeal before the Tribunal. The Tribunal, in exercise of its discretionary power and in order to do justice to both the parties has granted a conditional interim order. The interim order so passed by the Tribunal, in our opinion, is neither arbitrary nor irrational. Therefore, the learned single Judge was justified in rejecting the Writ Petition. We do not see any merit in this appeal filed against the order passed by the learned single Judge.

Therefore, no interference is called for in this appeal and the appeal stands rejected. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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